IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1910 OF 1995

Koregaon Taluka Shetkari Sahakari
Kharedi-Vikri Sangh Limited,
Koregaon, Dist. Satara Petitioners

versus

State of Maharashtra & others Respondents

S.P.Kadam, adv. for petitioners.

C.R.Sonawane, AGP for respondents.

CORAM : A.P.SHAH AND
S.C.DHARMADHIKARI, JJ.

DATE : 21st October 2004

PC :

1. This petition under Article 226 of the Constitution of India seeks quashing of notice dated 25th November 1993 under which a sum of Rs.3,53,089/- has been demanded as interest.

2. Petitioner is a co-operative society. It is carrying on business of sale and purchase of various items including agricultural instruments, grains, fertilizers. The same are supplied to sub-societies established at village level. It appears that petitioners purchased fertilizers on wholesale basis from respondents. It is

petitioners case that transaction of purchasing fertilizers was stopped way back in 1972. It is their case that the dues in respect of this transaction has been paid in full prior to 1991.

3. Petitioners submit that the above position has been accepted by respondent no.3. By letter dated 29th December 1987, respondent no.3 certified that only Rs.23,000/- is due and payable by the petitioners. Petitioners submit that this amount was paid before 31st December 1990 and the account was closed.

4. Petitioners submit that despite the above respondent no.3 by letter/notice dated 25th December 1993 demanded a sum of Rs.3,59,089/- towards interest. Petitioners submit that the abovementioned amount cannot be claimed as there is no agreement to pay interest and in any event the claim is barred by limitation.

5. We have heard learned counsel for parties. No affidavit-in-reply has been filed by the respondents. It is clear that during pendency of this petition there was an interim order in terms of prayer clause (b) thereby restraining respondents from taking further steps and recovering the amount under the impugned notice.

6. In our view, instead of going into merits of the claim, interest of justice would be served if the Chief Accounts Officer, Agricultural & Dairy Development Department is directed to pass appropriate orders on the same in accordance with law. Needless to state that the said authority will follow principles of natural justice and take appropriate decision after hearing the petitioners. Petition disposed of. No order as to costs.

(A.P.SHAH, J.)

(S.C.DHARMADHIKARI, J.)